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By: **Delegates Lee, Anderson, Bohanan, Bronrott, V. Clagett, Cryor, Doory, Dumais, Dwyer, Feldman, Fulton, Goldwater, Gutierrez, Hubbard, Impallaria, Kaiser, Kelley, King, Kirk, Love, Madaleno, McComas, McDonough, McHale, Menes, Montgomery, Murray, Niemann, Petzold, Shank, Simmons, Sossi, Stern, Vaughn, and Walkup**

Introduced and read first time: February 7, 2003  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 24, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Computers - Internet Auction Fraud**

3 FOR the purpose of establishing the crime of using an Internet auction listing service  
4 or an interactive computer service with the intent to defraud an individual of  
5 property, services, or anything of value; providing a certain exception for the  
6 person who provides the Internet auction listing service; defining certain terms;  
7 providing jurisdiction for prosecution of the crime; and generally relating to the  
8 use of an Internet auction listing service to obtain property by theft or fraud.

9 BY adding to  
10 Article - Criminal Law  
11 Section 8-409  
12 Annotated Code of Maryland  
13 (2002 Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Criminal Law**

17 8-409.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
19 INDICATED.

1           (2)       "INTERNET AUCTION LISTING SERVICE" MEANS A WEBSITE ON THE  
2 INTERNET, OR OTHER INTERACTIVE COMPUTER SERVICE THAT IS DESIGNED TO  
3 ALLOW OR ADVERTISED AS A MEANS OF ALLOWING USERS TO OFFER PERSONAL  
4 PROPERTY OR SERVICES FOR SALE OR LEASE TO A PROSPECTIVE BUYER OR LESSEE  
5 THROUGH AN ON-LINE BID SUBMISSION PROCESS USING THAT WEBSITE OR  
6 INTERACTIVE COMPUTER SERVICE.

7           (3)       (I)       "INTERACTIVE COMPUTER SERVICE" MEANS AN INFORMATION  
8 SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES  
9 COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER.

10                   (II)       "INTERACTIVE COMPUTER SERVICE" INCLUDES A SERVICE OR  
11 SYSTEM THAT PROVIDES ACCESS TO THE INTERNET.

12       (B)       A PERSON MAY NOT KNOWINGLY AND WILLFULLY USE ELECTRONIC  
13 COMMUNICATION THROUGH AN INTERNET AUCTION LISTING SERVICE OR AN  
14 INTERACTIVE COMPUTER SERVICE:

15           (1)       WITH AN INTENT TO DEFRAUD AN INDIVIDUAL OF MONEY, GOODS,  
16 SERVICES, OR ANYTHING OF VALUE; OR

17           (2)       TO EXERT CONTROL OVER OR OBTAIN AN INDIVIDUAL'S MONEY,  
18 GOODS, SERVICES, OR ANYTHING OF VALUE BY MEANS OF DECEPTION.

19       (C)       (1)       IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER  
20 THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION EXCEEDS \$500, A  
21 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION  
22 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT  
23 EXCEEDING \$10,000 OR BOTH.

24           (2)       IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND OTHER  
25 THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION DOES NOT EXCEED  
26 \$500, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND  
27 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS OR A  
28 FINE NOT EXCEEDING \$500 OR BOTH.

29       (D)       A PERSON WHO VIOLATES THIS SECTION MAY BE PROSECUTED, INDICTED,  
30 TRIED, AND CONVICTED IN ANY COUNTY IN ~~OR THROUGH~~ WHICH THE ELECTRONIC  
31 COMMUNICATION ORIGINATED OR TERMINATED.

32       (E)       NOTHING IN THIS SECTION APPLIES TO THE PERSON WHO PROVIDES THE  
33 INTERNET AUCTION LISTING SERVICE IF THE PERSON DOES NOT EXAMINE, SET THE  
34 PRICE, OR PREPARE THE DESCRIPTION OF THE PERSONAL PROPERTY OR SERVICE TO  
35 BE OFFERED THROUGH THE LISTING SERVICE.

36       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
37 effect October 1, 2003.

